

Docket No.: 050229-0430



zhu

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|--|---|-----------------------------|
| In re Application of | : | Customer Number: 20277 |
| Sylvia DAUNERT, et al. | : | Confirmation Number: 6910 |
| Application No.: 10/803,985 | : | Group Art Unit: 1614 |
| Filed: March 19, 2004 | : | Examiner: Raymond J. HENLEY |
| For: NOVEL, MORE BIOCOMPATIBLE, ARTIFICIAL MUSCLE - TYPE HYDROGEL BLENDS ELECTRO-ACTUATED AT PHYSIOLOGICAL PH | | |

AMENDMENT

Mail Stop Restriction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Noting the Office Action of October 3, 2007, 2007 wherein restriction has been required, Applicant hereby elects **Group I, (claims 1-18)** for prosecution in the above-identified application, **with traverse**.

The Examiner requires restriction under 35 U.S.C. § 121 in the following manner:

Group I, including claims 1-18, drawn to a drug delivery device containing an electroactive hydrogel and optionally a therapeutic, prophylactic or diagnostic agent as well as the hydrogel itself, classified in class 424, and

Group II, including claims 18-32, drawn to a method for delivering a therapeutic, prophylactic or diagnostic agent which involves the implantation of a drug delivery device containing an electroactive hydrogel, classified in class 514.

As an initial matter, it appears that Group II should include claims 19-32, not 18-32. Furthermore, it is respectfully submitted that the restriction requirement is too narrowly drawn and that, in particular Group II should be rejoined with Group I as it is not an undue burden on the Examiner to search both the device and process use of Groups I and II as examination of the claims drawn to device would most likely uncover relevant art related to the process of use.

Applicant respectfully requests reconsideration and withdrawal of the restriction/election requirements and requests prosecution of the application in its entirety. However, in response to the requirement, Applicant respectfully reserves the right to have rejoined and examined any non-elected withdrawn claims that depend from or include the limitations of an allowed linking claim, and respectfully requests notification by the Examiner that any canceled, non-elected claims which depend from or include all the limitations of allowable linking claims may be reinstated by submission of an amendment, pursuant to M.P.E.P. §809.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Aamer S. Ahmed
Registration No. 58,958

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 ASA:ASA
Facsimile: 202.756.8087
Date: November 5, 2007

**Please recognize our Customer No. 20277
as our correspondence address.**